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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,390	08/28/2001	Shane Chen	BWD:7945.006	6029

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 04/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/941,390

Applicant(s)

Chen

Examiner

Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 5, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-31 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on Feb 5, 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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Status of Application

1. Applicant's amendment, filed Feb. 5, 2003 has been entered in the application, claims 1, 3-31 remain pending, claim 2 having been canceled.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 3-5, 7-13, 15-18, 20-25, and 27-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patmont et al. (US 6,347,681, cited previously) in view of Selwyn (GB 1,518,432, cited previously). Patmont et al. teach a scooter which may be provided to a user, which includes a running board (12), supported by a front wheel (20) and a rear wheel (22), the front wheel being connected to a handle bar (26) by a steering shaft (28), and a provided detachable motor assembly including a case (50), and a motor (24), the case housing a battery (56), and the motor being electrically connected thereto, the motor having a shaft (25) which is resiliently urged into contact with one of the wheels, under the operation of a biasing element (27) in the form of a spring, which is passed around a portion of the scooter (the loop at the end of 180b), the motor being located externally of the case, and operable in response to a control mechanism (32) connected to the handle bar, and further including a sensor (48, 148) which operates in response to a wheel slowing brake, the sensor indicating a slowing of the wheel, to the breadth claimed, for effecting a change in the motor operation, the motor operation circuit further including a current sensor (adjustable voltage divider R15, R17) which can control the circuit in the event of an over-current through the MOSFET 108, which feeds the motor. The reference to Patmont et al. fails to teach the motor assembly as being located at the front of the scooter, attached to the steering shaft, and vertically adjustable with respect to the front wheel.

Selwyn teaches a motorized scooter having a motor (5) connected to a steering shaft (3) and for driving a front wheel (4), the battery being located in a case (7) which is mounted to the steering shaft, and which may be vertically adjusted with respect to the front wheel by a pivoting

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of the shaft (see phantom, figure 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the motor, and battery of the scooter of Patmont et al. on the downwardly foldable steering shaft for the front wheel, as suggested by Selwyn, for the purpose of allowing driving and braking traction to be applied to the front wheels of the scooter, rather than the rear wheels.

Patmont et al. as modified by Selwyn fail to teach the biasing element as being an elastic band. Elastic bands are well known resilient elements which are capable of performing as a spring device and but, in view of generally being non-metallic, are well adapted to environments which may cause corrosion, such as damp situations, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to replace the spring taught by Patmont et al. as modified by Selwyn with an elastic band for the purpose of extending the outdoor life of the motor mount.

Patmont et al. as modified by Selwyn, while teaching a case as claimed, fail to teach a clamp for connecting the case to the scooter. Machine clamps, such as threaded fasteners and washers, are well known mechanisms for connecting element to one another, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to connect the case taught by Patmont et al. as modified by Selwyn to the scooter frame using a clamp, such as a threaded screw and a retaining washer, for the purpose of easily attaching the case to the scooter using commonly available hardware.

Patmont et al. as modified by Selwyn fail to teach the motor as being located inside the case. Providing a single container for a plurality of elements is an old and well known packaging expedient, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide a portion of the case of Patmont et al. as modified by Selwyn to surround a portion of the motor, for the purpose of protecting the motor from the elements.

4. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patmont et al. in view of Selwyn and Tsai (US 6,273,205, cited previously). The reference of Patmont et al. as

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modified by Selwyn is discussed above and fails to teach the scooter as capable of allowing a disengagement of the motor from the wheel, to allow manual use of the scooter. Tsai teaches a motor powered scooter wherein a motor (34) with a driving shaft (35, 36) is resiliently biased (by 40) to engage a drive wheel (16) of the scooter, and wherein the motor assembly (30) may be displaced from its engaged position (see figure 4), by an operating arm (64, 60, 53). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide an operating arm to displace the motor from engaging the drive wheel of the scooter of Patmont et al. as modified by Selwyn as suggested by Tsai, for the purpose of allowing the scooter to be easily used when the battery is not charged.

5. The indicated allowability of claims 6, 14 and 26 is withdrawn in view of an examiner's error in interpretation of the claims and prior art of record. The examiner apologizes for any inconvenience associated with the withdrawal of the indication of allowable material.

6. Claims 6 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patmont et al. in view of Olsen (US 5,799,747, cited previously). Patmont et al. teach a scooter which may be provided to a user, which includes a running board (12), supported by a front wheel (20) and a rear wheel (22), the front wheel being connected to a handle bar (26) by a steering shaft (28), and a provided detachable motor assembly including a case (50), and a motor (24), the case housing a battery (56), and the motor being electrically connected thereto, the motor having a shaft (25) which is resiliently urged into contact with one of the wheels, under the operation of a biasing element (27) in the form of a spring, which is passed around a portion of the scooter (the loop at the end of 180b), the motor being located externally of the case, and operable in response to a control mechanism (32) connected to the handle bar. The reference of Patmont et al. fails to specifically teach the case mounting as having a bearing portion which engages with a pin on the scooter. Olsen teaches a commonly known mount for an element (50) wherein the element is provided with a bearing aperture which engages a pin (60) mounted to a bracket portion (70) on a scooter (80). It would have been obvious to one of ordinary skill in the art at the time of the

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invention to provide the case taught by Patmont with a bearing aperture and the scooter with a pin, as taught by the mounting scheme of Olsen, for the purpose of allowing easy assembly/disassembly of the case to the scooter.

7. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Patmont et al. in view of Selwyn and Olsen. The reference of Patmont et al. as modified by Selwyn fails to specifically teach the case mounting as having a bearing portion which engages with a pin on the scooter. Olsen teaches a commonly known mount for an element (50) wherein the element is provided with a bearing aperture which engages a pin (60) mounted to a bracket portion (70) on a scooter (80). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the case taught by Patmont et al. as modified by Selwyn with a bearing aperture and the scooter with a pin, as taught by the mounting scheme of Olsen, for the purpose of allowing easy assembly/disassembly of the case to the scooter.

Response to Comments

8. Applicant's comments, filed with the amendment, have been carefully considered. Applicant has argued that it is not a mere matter of design choice to mount the motor to the front wheel in place of the rear wheel. The examiner agrees, however a mere design choice motivation was not set forth, rather, the reference of Selwyn has been employed to provide a teaching for locating a motor at a front wheel location.

In that the front wheels of both the references of Selwyn and Patmont et al. are mounted to a steerable shaft, it is not considered to be at all beyond the skill of the ordinary practitioner to mount a motor to that portion of the scooter (i.e., the steerable shaft portion) to which the front wheel is mounted, at least so that the motor successfully engages the wheel.

Further, please note that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references.

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Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

As regards the detachable mounting of the motor, please note that (a) the mounting of the motor taught by Patmont *is* detachable, and the reference of Selwyn has only been employed for the purpose of teaching a shifting of the motor mount location and (b), as the motor of Selwyn is not taught to be integral with- (see page 1, lines 30-40) but rather mounted on- a portion of the scooter, it is inherently detachable through a reversal of the mounting procedure.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to :

(703) 305-3597 or 305-7687 (for formal communications intended for entry; informal or draft communications may be faxed to the same number but should be clearly labeled "UNOFFICIAL" or "DRAFT")

The Office has also established electronic fax servers for Technology Center 3600 as follows:

703-872-9326 (Official communications)
703-872-9327 (Official After Final communications)
703-872-9325 (Customer Service)

F. VANAMAN
Primary Examiner
Art Unit 3618

F. Vanaman
April 17, 2003



4/17/03